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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,618	02/02/2004	Ted Blocker	BRH 302A	2306

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EXAMINER

ALIMENTI, SUSAN C

ART UNIT PAPER NUMBER

3644

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/770,618

Applicant(s)

BLOCKER, TED

Examiner

Susan C. Alimenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,6,9-12 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) 16 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 6,9-12,15 and 17-22 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 16 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The embodiment where the opening in the frame tapers, appears to be present only in Figures 8 and 9. The previous election of species 1 as viewed in Figures 1-5, shows a circular opening in the frame and does not correspond to the embodiment recited in claim 16.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 16 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 6, 9-12, 15, and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilslef (US 2,052,065).

Wilslef discloses the invention for securing an animal to a fixed object (back wall of stall), as recited in claim 6, comprising a securing device (manger 2), via a lead line (hitching rope 7) coupled to the animal (left column, lns.42-44). The securing device comprises a frame

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(front wall of manger 2), having an opening 3 therein and a retaining member 6, pivotally secured to said frame 2 and traversing said opening 3. The method of securing the animal comprises inserting the lead line 7 through the opening in the frame, best viewed in Figure 2, and extending a portion of the lead line 7 around the retaining member 6. When the lead line 7 is pulled into contact with the retaining member 6, the retaining member is moved toward a closed position where the retaining member 6 contacts the frame (front wall of manger 2). As is clear from Figures 2 and 3, the retaining member and frame are further free of surface features that impede smooth sliding of the line 7 across the surfaces.

Regarding the amendments to claims 6 and 10 and newly added claim 19, while Wilslef does not positively show that the lead line 7 is urged toward a periphery of the opening 3, such is considered obvious since the apparatus is intended for hitching a horse thereto and as the horse will stand at a height greater than that of the frame 2, the line 7 will extend at an upward inclination. If the horse were to pull on the lead line 7 it would exert an upward tension force and said line 7 would be urged to the upper periphery of opening, at the point where retaining member 6 pivots with frame 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made that any tension force the horse would impart on the device would be an upwardly directed force, causing the line 7 to move toward the periphery of the opening.

With regard to claim 9, and the above discussion, when the retaining member 6 is in the closed position (Figure 3), the end of said retaining member that is not pivotally attached to the frame is in contact with said frame.

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Regarding claim 10, the frame includes opposing sides defined as the portions of the frame to the right, left, top and bottom of slot 3. The opposing sides define a closed perimeter, and the retaining member 5 is disposed in between the opposing sides. The lead line 7 is interlaced through the opposing sides and around the retaining member 6, to frictionally engage the line 7 with the frame and retaining member 6.

Regarding claim 11, when the lead line 7 is pulled to frictionally engage the retaining member 6 and frame, the end of the retaining member 6 that is not pivotally attached to the frame is pulled into contact with said frame.

Regarding claim 12, the portion of the frame that forms slot 3 is considered to be of a "ring-like" configuration.

Regarding claim 16 the retaining member exerts a lateral reaction force upon the lead line 7 when a force is imposed upon the apparatus by a horse attached thereto. Further regarding claims 17 and 20, as the lead line is pulled up by the horse the line will contact the retaining member 6 and the walls of opening 3, therefore increasing the resulting friction forces on said line that if the line were just contacting the retaining member.

Regarding claim 18, and the above discussion, the loop at the end of line 7 holding a ring is considered to be a bight.

Regarding claim 21 assuming that knot 9 is not up against frame 2, the friction force of the lead line against the retaining member is considered such that a panicked animal could pull the line through opening 3.

Allowable Subject Matter

4. Claim 5 is allowed.
5. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 8 September 2005 have been fully considered but they are not persuasive. Applicant contends that the present amendments serve to distinguish the claims over the Wilslef reference. The examiner disagrees for the reasons set forth in the above rejection. Further, Applicant argues, "Wilslef does not disclose that at least part of the retaining member lead-line-contact surface defines a path configured to urge the lead line toward a periphery of the opening," (Arguments filed 9/8/05, p.2). The examiner insists this is still a very broad limitation that is satisfied by the mere fact that the surface of Wilslef's retaining member 6 that contacts lead line 7, as shown in Figures 2 & 3, is rounded and smooth. Such a surface encourages movement of the lead line 7 up and down member 6, thus contacting the peripheral sides of opening 3.

In conclusion, for these reasons and the reasons stated in the rejection above, the rejection of claims 6, 9-12, and 15-22 is maintained.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan C. Alimenti


SUPERVISORY PATENT EXAMINER